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TIPS

for SUPERVISORS

On Personnel Management

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U. S. DEPARTMENT OF AGRICULTURE

CURRENT SERIAL RECORDS
from the Director of Personnel

THE APPEALS SYSTEM - WHAT IT IS

Note to Supervisors:

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This happens when it comes to explaining the ins and outs and ups and downs of regulations. It is difficult!

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We want them to -- and seek your help to accomplish this. In an effort to aid you to do so, this "TIPS" attempts to explain the system in everyday language.

The more technical aspects are in Chapter 58 of Title 8. If you need it to supplement the information in this "TIPS" it can be borrowed from any agency administrative or personnel officer.

Will you read this "TIPS" and see that its contents are explained to every employee?

Carl B. Barnes

Carl B. Barnes
Director of Personnel

U. S. Department of Agriculture
Washington, D. C. 20250
December 1963



APPEALS SYSTEM -

WHAT IT IS

In a letter written almost 150 years ago, Thomas Jefferson said

"For God's sake, let us freely hear both sides."

This is what the disciplinary appeals system of USDA dedicates itself to do.

The system is a means to grant a full hearing before an impartial Department official--at the request of an employee who has been:

Suspended for more than 30 days
Demoted, in rank or pay
Fired from his job

And it affords such an employee impartial

reconsideration of--and the opportunity to prove that--the action taken against him was improper.

But it should be borne in mind the system does not cover

Reductions in force actions
Actions taken because of national security
Actions ordered by CSC

For years, if an employee was "charged," his only recourse was a defensive reply. If the charges "stuck," penalty was imposed. And that was that.

Only if the employee happened to be a 10-point veteran did he have a right of appeal--in which case it was to the Civil Service Commission under Sec. 14 of the Veterans Preference Act.

A non-veteran employee couldn't appeal to anyone.



But a year ago, the President by Executive Order gave the same appeal rights to all career employees in the competitive service--vets and non-vets alike.

Each agency of government thereupon set up its own appeals system.

Any employee, who has had one of the actions mentioned above taken against him, may take advantage of this system; IF he is:

Non-temporary
In the competitive service
Has completed his probationary period

At the present time, this right is likewise being extended to long-time employees in excepted appointments below GS-9.

In addition to USDA's disciplinary appeals system an employee may make a further appeal to the Civil Service Commission--if the employee still feels he has not gained justice within the Department.

It must be remembered, however, that an employee CANNOT appeal to USDA and CSC at one and the same time. The USDA appeal comes first. Failing that, the employee may appeal to CSC.

APPEALS SYSTEM -

HOW IT WORKS

Under his legal authority to direct the affairs of USDA, the Secretary can remove employees and take other adverse actions appropriate to the individual situation.

Most of this authority has been delegated to agency officials. Personnel and administrative officials use this authority to maintain the excellence of our service to the public.

Employees are expected to perform their duties and conduct themselves so as to maintain the public's respect for the Department and their agency.

If an employee fails to meet this standard, his supervisor may initiate disciplinary action against him.

The world doesn't owe anyone a living. Neither does USDA. It has to be earned--through a job. And the job has to be done well--and in good conduct.

Length of service is no guarantee to job ownership if an employee is guilty of misconduct.

But sometimes even the best of men make mistakes. And sometimes false witness is brought to bear on the innocent.

Certain procedural protections have been designed to insure that no employee is subjected to arbitrary or capricious personnel actions which could end in the employee's loss of his job or permanent damage to his life's happiness.

Therefore the Department's authority to take action against employees is limited by certain safeguards.

One of these safeguards is the employee's right to a written notice of proposed disciplinary action.

This notice must contain the reasons for such action. It must give the employee an opportunity to answer the charges in writing and show why the proposed action should not be taken.

This right applies whenever removal, demotion or suspension is proposed.



If the proposed action is more severe than a 30-day suspension, the employee has a further right to make an answer in a personal conference with an agency official and to 30 days of pay status before the action is taken.

The Departmental disciplinary appeal system (introduced above) is an additional safeguard which has been in effect since July 1962. A major feature of this appeal is a full hearing within the Department.

This hearing includes:

An opportunity to examine the file upon which the adverse action was based

An opportunity to be present with a representative

An opportunity to question and rebut evidence relied upon by the agency

An opportunity to cross-examine witnesses who are present at the hearing.

A roster of about 200 Department officials has been set up to hold these hearings. These officials have been chosen for their proven ability

to give thorough consideration to questions and to make fair decisions. Many of them have long experience as employees of USDA and therefore understand the practical problems under which we work.

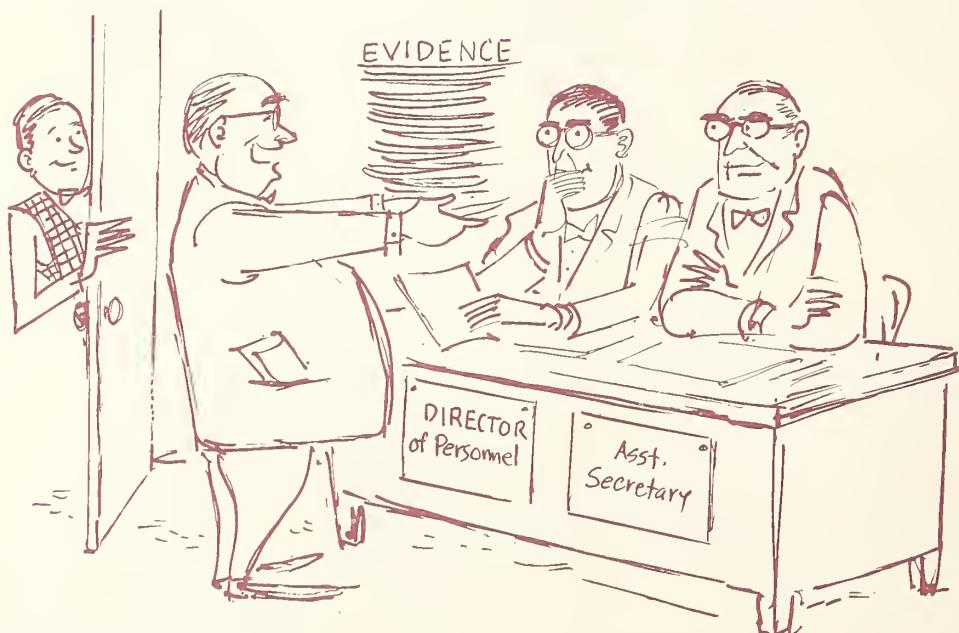
After the hearing has been held and the employee given his "day in court," a report of it and the Hearing Officer's recommendation will be evaluated in the Office of Personnel.

Final decision is made by the Director of Personnel, an official of the rank of Assistant Secretary, or the Secretary.

WHAT IS ALL THIS TO ME?

The Departmental appeal system does two things for you:

1. The fact that there is an appeal system is a deterrent to attempts by anyone to initiate an unjustified adverse personnel action against you.
2. If an adverse action is taken against you, you are guaranteed a measure of "fair play."



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THE ADVERSE ACTION APPEALS SYSTEM

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In the past, before 1944, an employee against whom charges had been preferred had only one opportunity i.e. which to present his case--when he made his answer to the letter of charges.

In 1944, Section 14 of the Veterans Preference Act gave a Veterans Preference employee who had been the subject of an adverse action a right to present his case in a full hearing before the Civil Service Commission.

However, before July 1962, a non-veteran employee did not have a right to have the merits of his case reconsidered after a final decision on the charges had been made.



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